

SCHEDULE 1

Regulation 5(3)

OLD TANKS

Interpretation

1.—(1) In this Schedule—

“ADR” means the European Agreement concerning the International Carriage of Dangerous Goods by Road signed at Geneva on 30th September 1957, as revised or reissued from time to time⁽¹⁾;

“an assembly of old pressure receptacles” means an assembly of old pressure receptacles—

- (a) held firmly together and interconnected by a manifold; and
- (b) where each receptacle has a volume not exceeding 150 litres;
- (c) “competent person” means a competent person other than an employee and accordingly any reference to a competent person performing a function includes a reference to his performing it through his employees;

“examination” means in respect of an old tank, a careful and critical scrutiny of that old tank in or out of service, as appropriate, and using suitable techniques, including testing where appropriate, to assess—

- (a) its actual condition; and
- (b) whether, for the period up to the next examination, it will not cause danger when properly used if normal maintenance is carried out;

“old tank-vehicle” means a tank-vehicle except that it shall include—

- (a) any demountable tank which is attached to it; and
- (b) an assembly of old pressure receptacles—
 - (i) mounted on a frame where the frame is permanently fixed to the vehicle; and
 - (ii) where the total volume of the assembly is at least 1,000 litres;

“old tank wagon” means a tank wagon except that it shall include—

- (a) any demountable tank which is attached to it; and
- (b) an assembly of old pressure receptacles—
 - (i) mounted on a frame where the frame is permanently fixed to the wagon; and
 - (ii) where the total volume of the assembly is at least 1,000 litres;

“pressure vessel” means a tank-container or the fixed or demountable tank of an old tank-vehicle which is—

- (a) used or intended to be used for the carriage of dangerous goods—
 - (i) at a pressure of 500 millibar or more above or below atmospheric pressure; or
 - (ii) at a pressure of 500 millibar or less above atmospheric pressure—
 - (aa) if that pressure is maintained by artificial means; and
 - (bb) would rise above that pressure if such means were no longer employed; or
- (b) loaded or discharged at a pressure of 500 millibar or more above or below atmospheric pressure;

(1) 2003 edition: ISBN 92-1-139078-8. Existing corrigenda are corrigendum 1 (February 2003) and corrigendum 2 (June 2003)

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“RID” means the Regulations concerning the International Carriage of Dangerous Goods by Rail which form Annex I to Appendix B to COTIF;

“trailer” has the meaning assigned to it in regulation 2(1) of the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999(2);

“tube-container” means a group of old pressure receptacles connected together—

- (a) with a total capacity greater than 3 cubic metres;
- (b) fitted into a framework suitable for lifting on and off a vehicle, and intended to be used for the carriage of gases; and

“tube trailer” means a trailer which has—

- (a) more than one old pressure receptacle structurally attached to, or forming part of, the trailer; and
- (b) which is intended to be used for the carriage of gases.

(2) For the purpose of this Schedule the operator of—

- (a) a vehicle, in relation to carriage by road, shall be—
 - (i) the person who, having a place of business in Northern Ireland, has the management of the container or vehicle for the time being; or
 - (ii) if no person satisfies the requirements of sub-head (i), the driver of the vehicle;
- (b) an old tank (other than the fixed old tank or demountable old tank of an old tank-vehicle) in relation to carriage by road or of a tank-container or old tank wagon in relation to carriage by rail shall be—
 - (i) the person who, having a place of business in Northern Ireland, owns the old tank, tank-container or old tank wagon concerned;
 - (ii) if no person falls within sub-head (i), the person who, having a place of business in Northern Ireland, acts as agent for the owner of the old tank, tank-container or old tank wagon concerned;
 - (iii) if no person falls within sub-heads (i) or (ii) in relation to carriage by rail, then the operator of the train on which the tank-container is carried or of which the old tank wagon forms part;
 - (iv) if no person falls within sub-heads (i) or (ii) in relation to carriage in an old tank by road, the person who, having a place of business in Northern Ireland, has the management of that old tank; or
 - (v) if no person falls within sub-heads (i), (ii) or (iv) in relation to carriage in an old tank by road, the driver of the vehicle on which the old tank is carried.

(3) Notwithstanding sub-paragraph (2)(a), a person shall not be regarded as the operator of a vehicle solely because—

- (a) he has the management of it during loading or unloading; or
- (b) the vehicle is on premises which are under his control.

(4) For the purposes of this Schedule a person to whom an old tank (other than the fixed old tank or demountable old tank of an old tank-vehicle), tank-container or old tank wagon is leased or hired shall be deemed to own it unless—

- (a) the lessor or the hirer has made a written agreement with the person to whom he has leased or hired it; and

(2) S.R. 1999 No. 454 to which there are amendments not relevant to these Regulations

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- (b) that agreement is to the effect that the lessor or hirer shall assume the responsibilities of the owner imposed by or under this Schedule.
- (5) For the purposes of this Schedule a vehicle, or old tank (other than the fixed old tank or demountable old tank of an old tank-vehicle) shall be deemed to be engaged in the carriage of dangerous goods throughout the period—
- (a) in the case of an old tank-vehicle—
 - (i) from the commencement of loading it with the dangerous goods concerned for the purpose of carrying those goods by road;
 - (ii) until the said vehicle and, where relevant, any compartment of it, has been unloaded and, where necessary, cleaned or purged so that any of the goods or their vapours which remain in it are not sufficient to create a significant risk to the health or safety of any person; or
 - (b) in the case of an old tank (other than the fixed old tank or demountable old tank of an old tank-vehicle)—
 - (i) where the old tank concerned has been loaded with the dangerous goods before being placed on the vehicle which is to be used to carry that old tank before the commencement of loading, from the commencement of loading the said old tank with the dangerous goods for the purpose of carrying those goods by road;
 - (ii) until either the old tank is removed from the relevant vehicle or the old tank and any compartment of it has been unloaded and, where necessary, cleaned or purged so that any of the dangerous goods or their vapours which remain in it are not sufficient to create a significant risk to the health or safety of any person,and in either case whether or not the old tank-vehicle or old tank concerned is on the road at the material time.

Construction of tanks of old tank-vehicles, tank-containers and old tank wagons for carriage by road or rail

2.—(1) An operator of an old tank-vehicle, old tank wagon or tank-container shall ensure that it is not used for the carriage of dangerous goods by road or rail unless the fixed old tank or demountable old tank of the old tank-vehicle, old tank wagon or of the tank-container—

- (a) is properly designed, of adequate strength and well constructed from sound and suitable material;
- (b) is suitable for the purpose for which it is being used having regard to—
 - (i) the nature and circumstances of the journey being undertaken; and
 - (ii) the properties and quantity of the dangerous goods and of any other goods being carried with the dangerous goods;
- (c) is designed, constructed and maintained to prevent any of its contents escaping, except that this shall not prevent the fitting of a suitable safety device;
- (d) is made of materials which are not liable—
 - (i) to be adversely affected by the dangerous goods; and
 - (ii) in conjunction with the dangerous goods, to significantly increase the risk to the health or safety of any person,

where such materials are likely to come into contact with the dangerous goods.

(2) An operator of an old tank-vehicle, old tank wagon or tank-container shall ensure that it is not used for the carriage of dangerous goods by road or rail unless, in the case of an old tank of an old

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tank-vehicle or tank-container used for the carriage of dangerous goods on or after 6th July 1992, he has such information in writing concerning—

- (a) the design, construction, examination, and maintenance of; and
- (b) repairs or modifications made to,

that old tank, as may reasonably foreseeably be needed to enable him to comply with this Schedule.

Testing, examination and maintenance for carriage by road or rail

3.—(1) A train operator or the operator of an old tank-vehicle, tank-container or old tank wagon shall ensure that dangerous goods are not carried in it by road or by rail, unless—

- (a) for the purpose of ensuring that it is properly maintained, the operator has prepared and carried into effect a suitable written scheme for the initial and periodic examination and the initial and, where appropriate, periodic testing—

- (i) on or before 1st August 2007, by a competent person;
- (ii) by an inspection body approved under paragraph 8; or
- (iii) under the control of an inspection body,

of the old tank of a tank-container or the fixed old tank or demountable old tank of the old tank-vehicle or old tank wagon;

- (b) prior to being used for the first time for the carriage of dangerous goods, the fixed old tank or demountable old tank of the old tank-vehicle or old tank wagon or the old tank of the tank-container in question has been certified by a competent person or an inspection body approved under head (a) as suitable for its intended purposes and those purposes are set out in the certificate; and

- (c) subject to sub-paragraph (8), the operator of an old tank-vehicle, tank-container or old tank wagon shall ensure that he has in his possession a current report signed by the competent person or the inspection body approved under head (a) that carried out the most recent examination and test in accordance with the scheme referred to in head (a), which states—

- (i) the date and the result of the said examination and test;
- (ii) the date prior to which any further examination and, where appropriate, test, must be carried out, the interval to which shall be—
 - (aa) as specified in the scheme referred to in head (a); or
 - (bb) such other period as the competent person or the inspection body approved under head (a) may specify;
- (iii) that the relevant old tank of the tank-container, fixed old tank or demountable old tank of the old tank-vehicle or old tank wagon remains suitable for the purposes set out in—

- (aa) the certificate issued pursuant to head (b); or
- (bb) a further certificate issued under paragraph 4(5),

or if it is no longer suitable for any of these purposes, then stating the purposes for which it is suitable; and

- (iv) in the case of a pressure vessel for carriage by road, the maximum working pressure to which the vessel may be subjected.

(2) Subject to sub-paragraph (8), the operator of an old tank-vehicle, tank-container or old tank wagon shall ensure that he has in his possession a current report signed by the competent person of the inspection body approved under sub-paragraph (1)(a) that carried out the most recent examination and test in accordance with the scheme referred to in sub-paragraph (1)(a), which states—

- (a) the date and the result of the said examination and test;
 - (b) the date prior to which any further examination and, where appropriate, test, must be carried out, the interval to which shall be—
 - (i) as specified in the scheme referred to in sub-paragraph (1)(a); or
 - (ii) such other period as the competent person or the inspection body approved under sub-paragraph (1)(a) may specify;
 - (c) that the relevant old tank of the tank-container, fixed old tank or demountable old tank of the old tank-vehicle or old tank wagon remains suitable for the purposes set out in—
 - (i) the certificate issued pursuant to sub-paragraph (1)(b); or
 - (ii) a further certificate issued under paragraph 4(5),or if it is no longer suitable for any of these purposes, then stating the purposes for which it is suitable; and
 - (d) in the case of a pressure vessel for carriage by road, the maximum working pressure to which the vessel may be subjected.
- (3) A train operator shall ensure that the operator of an old tank-vehicle, tank-container or old tank wagon has in his possession the report referred to in sub-paragraph (2).
- (4) Subject to sub-paragraph (8) and paragraph 5(1), dangerous goods shall not be carried by road in the fixed old tank or demountable old tank of an old tank-vehicle or in the old tank of a tank-container or by rail in a fixed or demountable old tank of an old tank wagon or in the old tank of a tank-container if—
- (a) the fixed old tank, demountable old tank, or old tank or old tank wagon concerned have been damaged, modified or repaired in such a way as might affect their safety since—
 - (i) the report referred to in sub-paragraph (1)(c) was issued; or
 - (ii) where the old tank, fixed old tank or demountable old tank or old tank wagon is specified in sub-paragraph (7)(b), the old tank was last inspected and tested in accordance with—
 - (aa) ADR;
 - (bb) RID; or
 - (cc) the IMDG Code; or
 - (b) in the case of a pressure vessel for carriage by road, the pressure in the vessel exceeds the maximum working pressure specified in the report referred to in sub-paragraph (1)(c).
- (5) It shall be sufficient compliance with sub-paragraph (1)(c) if—
- (a) the competent person of the inspection body approved under sub-paragraph (1)(a) first enters his report in a computer under the operator's control and then authenticates it; or
 - (b) the report is transferred to such a computer by, or on the instructions of, the competent person or the inspection body approved under sub-paragraph (1)(a) as soon as practicable after he first enters it in a computer and authenticates it.
- (6) The procedure in sub-paragraph (5) may only be used if the report—
- (a) can be reproduced as a hard copy at the place where documents are required to be kept pursuant to paragraph 7;
 - (b) is secure from unauthorised interference; and
 - (c) can be authenticated only by the competent person or the inspection body approved under sub-paragraph (1)(a).

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(7) Where the fixed old tank or demountable old tank of an old tank-vehicle, the old tank of a tank-container or old tank wagon has fallen into a state of disrepair, been damaged, modified or repaired in such a way as might affect their safety since—

- (a) the report referred to in sub-paragraph (1)(c) was issued; or
- (b) in the case of a fixed old tank or demountable old tank of an old tank-vehicle, the old tank of a tank-container or old tank wagon specified in sub-paragraph (9), the old tank was last examined and tested in accordance with—
 - (i) ADR;
 - (ii) RID; or
 - (iii) the IMDG Code,

then the provisions of sub-paragraph (1), or as the case may be, ADR, RID or the IMDG Code, shall apply in respect of any such old tank as if the old tank had not previously been used for the carriage of dangerous goods.

(8) Notwithstanding sub-paragraphs (1)(c) and (4), the operator may transport uncleaned old tanks by rail or by road, in respect of which the relevant certificate has expired, for the sole purpose of undergoing the inspection and tests with a view to renewing that certificate.

(9) Sub-paragraph (1), paragraphs 4(2) and 4(5) shall not apply to—

- (a) the fixed old tank or demountable old tank of an old tank-vehicle;
- (b) the old tank of a—
 - (i) tank-container; or
 - (ii) old tank wagon,

used for the carriage of dangerous goods where such an old tank has been inspected, tested, certified and marked in accordance with the requirements of ADR, RID or the IMDG Code.

Testing, examination and maintenance for carriage by road

4.—(1) Where, before 6th July 1992, there was in existence in respect of the fixed old tank or demountable old tank of an old tank-vehicle or a tank-container a suitable written scheme drawn up in accordance with regulation 7(2)(a) of the Dangerous Substances (Conveyance by Road in Road Tankers and Tank Containers) Regulations (Northern Ireland) 1988⁽³⁾, that scheme shall be deemed to be a suitable written scheme in respect of that old tank or tank-container in accordance with paragraph 3(1)(a).

(2) Subject to sub-paragraphs (3) and (6), every fixed old tank or demountable old tank of an old tank-vehicle and every tank-container to be used for carriage by road, shall have securely fastened to it, or to any support which is welded to that fixed old tank, demountable old tank or tank-container, in a readily accessible position, a corrosion-resistant plate on which the following information is indelibly marked—

- (a) the name or identifying mark of the manufacturer of the fixed old tank, demountable old tank or tank-container;
- (b) the serial number of the fixed old tank, demountable old tank or tank-container by which it can be identified;
- (c) the date of the most recent examination and test carried out in accordance with paragraph 3(1)(a); and

⁽³⁾ [S.R. 1988 No. 24](#) (revoked by the Road Traffic (Carriage of Substances in Road Tankers and Tank Containers) Regulations (Northern Ireland) 1992 ([S.R. 1992 No. 260](#)))

(d) in the case of a pressure vessel, the maximum working pressure to which the vessel may be subjected.

(3) Where compliance with sub-paragraph (2)(c) is impossible because there is no more room on a corrosion-resistant plate, the date concerned shall be indelibly marked on an additional corrosion-resistant plate which shall be—

(a) securely fastened to the relevant fixed old tank, demountable old tank or tank-container, or to any support welded to it; and

(b) in a readily accessible position;

and that additional plate shall also be marked in accordance with sub-paragraphs (2)(a) and (b) and, where appropriate, (2)(d).

(4) Where a corrosion-resistant plate referred to in sub-paragraph (2) or (3) is covered by an insulating layer and that layer surrounds the fixed old tank, demountable old tank or tank-container to which the plate is fastened—

(a) a duplicate corrosion-resistant plate shall be securely fastened to the exterior of the insulating layer; and

(b) that duplicate plate shall be indelibly marked with the same information as is marked on the covered plate.

(5) Where the competent person or an inspection body approved under paragraph 3(1)(a) is satisfied that the fixed tank or demountable tank of an old tank-vehicle or a tank-container is suitable for purposes other than those specified in the certificate referred to in paragraph 3(1)(b) he may endorse the certificate to that effect or issue a further certificate specifying those purposes.

(6) Sub-paragraph (2) shall not apply to any tube trailer or tube-container where the information specified therein is indelibly marked on each old pressure receptacle.

Testing, examination and maintenance for carriage by rail

5.—(1) A train operator may carry dangerous goods by rail in a tank-container or old tank wagon where the old tank of the tank-container or old tank wagon concerned is in a state of disrepair, for the sole purpose of transporting such an old tank to a place for repair, providing that it is safe to do so.

(2) An operator of a tank-container or old tank wagon shall not cause or permit dangerous goods to be carried in a tank-container or an old tank wagon by rail unless he certifies to the operator of the train—

(a) on which the tank-container is to be carried; or

(b) of which the old tank wagon is to form a part,

that he has complied with paragraph 3 in respect of the old tank of the tank-container or old tank wagon concerned.

Use of old tank-vehicles, old tank wagons or tank-containers for carriage by road or rail

6.—(1) The operator of an old tank-vehicle, old tank wagon or tank-container engaged in the carriage of dangerous goods by road or by rail shall take such steps as it is reasonable for them to take to ensure that nothing in the manner in which the old tank of the tank-vehicle, old tank wagon or tank-container in question is used is liable to create a significant risk or significantly increase any existing risk to the health or safety of any person.

(2) Without prejudice to sub-paragraph (1), the operator of an old tank-vehicle, old tank wagon or tank-container engaged in the carriage of dangerous goods by road or by rail shall ensure that the old tank in question is not filled with dangerous goods beyond a safe level.

Keeping of documents

7.—(1) The documents referred to in paragraphs 2 to 5 shall be capable of being reproduced as a hard copy by the operator of any—

- (a) tank-container or old tank wagon at the address within Northern Ireland from which the deployment of that tank-container or old tank wagon is controlled;
- (b) old tank-vehicle at the premises from which the old tank-vehicle operates or at the operator's principal place of business in Northern Ireland.

(2) Where the operator of a tank-container or old tank wagon does not own it, he shall comply with sub-paragraph (1)(a) if—

- (a) certified photocopies of the documents concerned are kept at the operator's place of business; or
- (b) the documents concerned are readily available from the owner of the tank-container or old tank wagon.

(3) Where the operator of an old tank-vehicle, tank-container or old tank wagon changes, the previous operator shall, insofar as he is required to keep any document at an address in Northern Ireland in accordance with sub-paragraph (1), give any such document to the new operator.

(4) Where either of the procedures referred to in paragraph 3(5) has been used, the operator shall comply with sub-paragraph (1) in respect of the report referred to in paragraph 3(1)(c) if—

- (a) the report is accessible from a computer kept by the operator at the place specified in sub-paragraph (1); and
- (b) notwithstanding sub-paragraph (3), if the operator has changed and the report is accessible from the previous operator's computer in accordance with head (a), then the previous operator shall provide the new operator with the information contained in that report.

Appointment of inspection bodies by the Northern Ireland competent authority

8.—(1) The Northern Ireland competent authority may appoint such persons as it thinks fit to be inspection bodies for the purpose of this Schedule.

(2) An application for—

- (a) appointment as an inspection body; or
- (b) for the amendment of an existing appointment,

shall be made to the Northern Ireland competent authority.

(3) An appointment made under this regulation—

- (a) by the Northern Ireland competent authority may relate to—
 - (i) all descriptions of old tank-vehicles, old tank wagons and old tank-containers for which it is the competent authority; or
 - (ii) such descriptions of such old tank-vehicles, old tank wagons and old tank-containers as it may determine;
- (b) may be made subject to such conditions as the Northern Ireland competent authority may determine, and such conditions may include conditions which apply upon or following termination of the appointment;
- (c) shall, without prejudice to the generality of head (b) and subject to sub-paragraph (7), require the inspection body to carry out the procedures and specific tasks for which it has been appointed;
- (d) shall be terminated upon 90 days' notice in writing to the Northern Ireland competent authority at the request of the inspection body; and

- (e) may be terminated if it appears to the Northern Ireland competent authority that any of the conditions of the appointment are not being complied with.
- (4) Subject to sub-paragraph (3)(d) and (e), an appointment under this regulation may be for the time being or for such period as may be specified in the appointment.
- (5) An inspection body appointed by the Northern Ireland competent authority shall be subject to such inspection by or on behalf of the Northern Ireland competent authority as is necessary to ensure compliance with any condition specified in the appointment.
- (6) The inspection referred to in sub-paragraph (5) may include the examination of premises, equipment and documents and the inspection body shall provide such copies, facilities, assistance and information as are reasonably required for the purpose of the inspection.
- (7) In respect of an application made to an inspection body in accordance with this Schedule, the inspection body shall not be required to carry out the procedures and tasks referred to in sub-paragraph (3)(c)—
 - (a) if the documents submitted to it with the application are not in English or another language acceptable to that body;
 - (b) until the applicant has paid the fee which that body requires pursuant to regulation 50(4); or
 - (c) if the body in question reasonably believes that, having regard to the number of applications made to it in relation to its appointment under this Schedule which are outstanding, it will be unable to commence the required work within three months of receiving the application.
- (8) If for any reason the appointment of an inspection body is terminated under this paragraph, the Northern Ireland competent authority may—
 - (a) give such directions—
 - (i) to the body whose appointment has been terminated; or
 - (ii) to another inspection body,for the purpose of making such arrangements for the determination of outstanding applications as it considers appropriate and those directions shall be complied with by the body to whom they are made; and
 - (b) without prejudice to the generality of head (a), authorise another inspection body to take over the functions of the body whose appointment has been terminated in respect of such cases as it may specify.

Exceptions

- 9. Schedule 1 shall not apply to or in relation to—
 - (a) the carriage of dangerous goods in a vehicle which is being used other than for or in connection with work; or
 - (b) old tanks used for the carriage of gas oil, diesel or heating oil with a flash point of more than 61°C and not more than 100°C (UN 1202) which remain safe and suitable for that purpose.